



4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2010-D-0354]

Guidance for Industry: Questions and Answers Regarding the Effect of Section 4205 of the Patient Protection and Affordable Care Act of 2010 on State and Local Menu and Vending Machine Labeling Laws; Withdrawal of Guidance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; withdrawal.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the withdrawal of a guidance entitled “Guidance for Industry: Questions and Answers Regarding the Effect of Section 4205 of the Patient Protection and Affordable Care Act of 2010 on State and Local Menu and Vending Machine Labeling Laws,” dated August 2010. We are taking this action because the policies stated in the guidance have been superseded by our issuance of final rules on menu and vending machine labeling.

DATES: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Felicia B. Billingslea, Center for Food Safety and Applied Nutrition (HFS-820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240-402-2371.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of August 25, 2010 (75 FR 52427), we announced the availability of a guidance entitled “Guidance for Industry: Questions and Answers Regarding the Effect of Section 4205 of the Patient Protection and Affordable Care Act of 2010 on State and Local Menu and Vending Machine Labeling

Laws.” The guidance stated that we were issuing the guidance to: (1) Ensure that industry and State and local governments understand the immediate effects of the law, and (2) clarify the effect of section 4205 of the Patient Protection and Affordable Care Act of 2010 on State and local menu and vending machine labeling laws.

We are withdrawing this guidance because we recently issued two final rules entitled “Food Labeling; Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments” and “Food Labeling; Calorie Labeling of Articles of Food in Vending Machines” (see 79 FR 71156 (December 1, 2014) and 79 FR 71259 (December 1, 2014), respectively). The preambles for these final rules discuss issues relating to Federalism and to federal preemption of State and local laws and reflect our latest thinking on those issues. Consequently, the guidance no longer reflects our current thinking insofar as the law’s effect on State and local menu and vending machine labeling laws is concerned.

Dated: February 3, 2015.

Leslie Kux,

Associate Commissioner for Policy.